

#### Members

Sen. Beverly Gard, Chairperson  
Sen. Kent Adams  
Sen. Vi Simpson  
Sen. Glenn Howard  
Rep. Mark Kruzan  
Rep. Richard Mangus  
Rep. Dale Sturtz  
Rep. David Wolkins  
David Benshoof  
Michael Carnahan  
Randy Edgemon  
Hon. Jack Fowler  
Marvin Gobles  
William Goffinet  
Max Goodwin  
Lori Kaplan  
Regina Mahoney  
Kerry Michael Manders  
David Rector  
Gary Redding  
Alice Schloss  
Lynn Waters



## ENVIRONMENTAL QUALITY SERVICE COUNCIL

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Authority: P.L. 248-1996 (SEA 138)

### MEETING MINUTES<sup>1</sup>

**Meeting Date:** August 10, 1999  
**Meeting Time:** 10:00 A.M.  
**Meeting Place:** Governmental Center South, 302 W. Washington St., Conference Room C  
**Meeting City:** Indianapolis, Indiana  
**Meeting Number:** 2

**Members Present:** Sen. Beverly Gard, Chairperson; Sen. Kent Adams; Sen. Vi Simpson; Sen. Glenn Howard; Rep. Mark Kruzan; Rep. Richard Mangus; David Benshoof; Randy Edgemon; Hon. Jack Fowler; William Goffinet; Lori Kaplan; Regina Mahoney; Kerry Michael Manders; David Rector; Gary Redding; Lynn Waters; Arthur Smith, Jr..

**Members Absent:** Rep. Dale Sturtz; Rep. David Wolkins; Michael Carnahan; Marvin Gobles; Max Goodwin; Alice Schloss; The Honorable Jim Trobaugh.

Senator Beverly Gard, the Chairperson of the Environmental Quality Service Council (EQSC), called the meeting to order at 10:10 a.m. Upon review of the minutes of the EQSC meeting of June 29, 1999, she proposed that a sentence on page three of the minutes be corrected to read as follows: "*Senator Gard asked a question about Senate Bill 343, which would have addressed the designation of water bodies*

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<sup>1</sup> Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

as outstanding state or national resources ...” This correction was adopted by consent.

Senator Gard then introduced Lori Kaplan, the Commissioner of the Indiana Department of Environmental Management (IDEM), who presented her Commissioner's report to the EQSC for the month of July. Ms. Kaplan distributed written copies of her report to the members of the EQSC<sup>2</sup> and highlighted certain points, including the following:

- No late permits were issued in the month of July, and IDEM has not issued a late permit for the past nine months.
- IDEM has begun the nation's first program to recognize child care facilities that take extra steps to make their facilities environmentally safe for children.
- IDEM will have three information booths at the Indiana State Fair.

Commissioner Kaplan provided an overview of Indiana's brownfields program. She and Dana Reed Wise, IDEM's Brownfields Program Section Chief, made the following points:

- IDEM has completed 22 brownfield environmental assessments for units of local government to date, exceeding its goal of 20, and has spent more than \$150,000 completing the assessments.
- IDEM has assisted in the redevelopment of over 100 brownfield sites to date, exceeding its goal by eight.
- Under the Indiana Brownfields Grant and Loan Program, IDEM and the Indiana Development Finance Authority have reviewed 67 applications and awarded 54 site assessment grants and two loans. The total amount awarded in grants exceeds \$1.5 million; loans equal \$550,000.
- IDEM has conducted 12 brownfields workshops, two more than planned, in which more than 500 persons participated. IDEM has published three issues of *the Brownfields Bulletin* and has established a brownfields web page.
- IDEM has established the Interagency Brownfields Task Force, which brings together representatives of IDEM, the Indiana Departments of Health, Commerce, Natural Resources, and Transportation, and the Development Finance Authority. Within this task force an Interagency Brownfields Advisory Team has been formed to provide direct assistance to communities.
- IDEM has completed a non-rule policy document regarding the issuance of a Qualified Contaminated Site statement for purposes of the federal brownfields tax incentive. (If IDEM certifies that the site to be cleaned up by a taxpayer is a “qualified contaminated site” under the federal Internal Revenue Code, the taxpayer is entitled to deduct cleanup costs in the year in which they are incurred rather than capitalizing them and depreciating them over the life of the asset.)

Commissioner Kaplan gave the following answers to questions from EQSC members:

- IDEM is able to provide funds to most of the communities seeking funding for brownfield cleanups, but communities are often reluctant to publicly identify their brownfield sites.
- The newly-formed Water Quality Advisory Board is designed to provide direction to IDEM with respect to the triennial review of water quality standards. The Board's duties and responsibilities are not intended to overlap with those of the EQSC. At this time, IDEM does not anticipate that the Water Quality Advisory Board will take up any topics other than the triennial review of water quality standards.

Senator Gard introduced two guests of the EQSC, Tom Fidler and Craig Robertson, to speak on their state's brownfields program, the Pennsylvania Land Recycling Program.

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<sup>2</sup> A copy of Ms. Kaplan's written report, consisting of several separate documents contained in a folder, is on file with the Legislative Information Center (LIC) in Room 230 of the Statehouse.

Thomas Fidler, Chief of the Land Recycling and Cleanup Program of the Pennsylvania Department of Environmental Protection, discussed the background, purposes, and structure of the Program. He made the following points:

- The Pennsylvania Land Recycling Program was established through legislation enacted in 1995, the product of a three-year bipartisan effort. Its purposes are to make contaminated sites safe, to return these sites to productive use, and to preserve farmland and greenspace.
- The Land Recycling Program changed the process by which a site could be cleaned up; simplified the procedure for the approval of a proposed cleanup project; established certain standards that must be met in a cleanup; provided for notification of the public regarding a proposed cleanup; provided grants and low-interest loans to assist “innocent” parties in conducting voluntary cleanups; and relieved the owner or developer of potential responsibility for further cleanup of a site when the applicable standard is attained.
- To qualify for the limitation on further cleanup responsibility, anyone proposing to clean up a site is required to select one or a combination of three environmental remediation standards:
  - (1) The Background Standard, which requires the removal of a contaminant from a site, but limits the removal requirement to the extent that the contaminant’s presence at the site is not related to any release of the contaminant at the site (i.e., some quantity of the contaminant may have entered the site from an outside source).
  - (2) The Statewide Health Standard, which uses a list of minimum cleanup levels for various contaminants. The cleanup levels are based on maximum allowable concentrations of each contaminant for each specific environmental medium. (The different environmental media include groundwater used for drinking or agriculture, groundwater not used for drinking or agriculture, soil in residential areas, soil in non-residential areas, etc.)
  - (3) The Site-Specific Standard, under which cleanup levels are developed specifically for the individual site based on the contaminants, exposures, and conditions unique to that site. Site-Specific Standard cleanup levels are developed on the basis of certain factors, including the following: for carcinogens in soil and groundwater, cleanup levels must represent a maximum excess cancer risk of between one in 10,000 and one in 1,000,000.
- Since 1995, the Land Recycling Program has led to 551 site cleanups. Of these, 39 used the Background Standard, 416 used the Statewide Health Standard, 69 used the Site-Specific Standard, and 27 sites were cleaned up under the pre-1995 category of “special industrial area”.
- The Land Recycling Program is staffed by approximately 120 field agents and 25 in-house managers and scientists. The amount of \$10 to 12 million is expended each year to fund the Program’s grants and low-interest loans.
- There is currently no listing of Pennsylvania brownfield sites, but a new initiative is to create a directory of brownfield sites available for purchase, cleanup and redevelopment.

In response to questions from EQSC members, Mr. Fidler provided this additional information:

- The Land Recycling Program’s grants are provided to units of local government and not-for-profit organizations.
- Upon follow-up visits to sites cleaned up under the Program, state officials found that approximately 70-75% were being used for a purpose different from their pre-cleanup use.

Craig Robertson, the Chairman of the Cleanup Standards Scientific Advisory Board of the Pennsylvania Land Recycling Program, discussed selected technical elements of the Land Recycling Program.<sup>3</sup> His presentation included the following points:

- The 1995 legislation that established the Pennsylvania Land Recycling Program borrowed

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<sup>3</sup> A written outline of Mr. Robertson’s testimony is available in the Legislative Information Center.

concepts from the regulations of Michigan and Texas. It is a strong, comprehensive statute that provides the direction and specificity necessary to establish a system offering the use of three different cleanup standards.

- The Cleanup Standards Scientific Advisory Board was established by the 1995 legislation to help the Pennsylvania Department of Environmental Protection develop statewide health standards to be used in the Land Recycling Program and provide advice on other matters. The Board played an important role in the establishment of the Program's cleanup standards.
- The regulations establishing the specific details of the cleanup standards were finalized in July, 1997. A final Technical Guidance Manual was completed in December, 1997. Revisions to the regulations and the Technical Guidance Manual are pending.
- A key element of the Land Recycling Program is the potential recognition, in a cleanup conducted under the Statewide Health Standard, that an aquifer involved in the cleanup is not currently used for drinking or agricultural purposes and there are no plans for the aquifer's future use for drinking or agricultural purposes. Such an aquifer is referred to as a "non-use aquifer." The recognition of non-use aquifers makes possible the cleanup of many sites (such as abandoned service stations) that would otherwise not be cleaned up.

After Mr. Robertson's remarks, Senator Gard asked the chairpersons of the four EQSC Subcommittees for an overview of their subcommittees' actions to date.

Senator VI Simpson, the Chairperson of the IDEM and Public Health Subcommittee, reported that her Subcommittee met on August 5; that the Subcommittee heard testimony from Commissioner Richard Feldman, M.D. of the State Department of Health on the effect of environmental contaminants on public health; and that Lakenya Johnson of the IDEM discussed Environmental Justice and Tim Method of the IDEM discussed the state's lead-based paint abatement program.

Senator Simpson said that her Subcommittee is beginning to seek out one or more sub-topics within its broad subject area with respect to which the Subcommittee could develop recommendations that would "make a difference." She added that the next meeting of the IDEM and Public Health Subcommittee will feature testimony from representatives of the U.S. EPA and Centers for Disease Control, and that the meeting date will be set when the arrangements for the speakers' appearance are finalized.

Senator Kent Adams, Chairperson of the Air Subcommittee, reported that his Subcommittee met on August 2; that the issues assigned to the Subcommittee were discussed at this meeting and will be explored further at subsequent meetings; and that an **Air Emissions Credit Trading Workgroup** was established within the Subcommittee and will meet on **Tuesday, August 24 at 1 p.m in Training Center Room 1** in the **Indiana Government Center South (IGCS)**. Senator Adams announced that the next meeting of the **Air Subcommittee** will be held on **Thursday, September 2 (beginning 9:30 a.m.) in Conference Room A in the IGCS**. He said that air emissions from the production of styrene and ground-level production of ozone will be discussed at this meeting.

In the place of Representative David Wolkins, the Chairperson of the IDEM Administrative Issues Subcommittee (who was absent), Senator Simpson gave a brief summary of the IDEM and Administrative Issues Subcommittee meeting held on August 4. She reported that IDEM's use of dedicated funds and related budgeting techniques was the primary issue discussed at this meeting; that IDEM agreed to hire an independent contractor to review its methods of using dedicated funds; that it was decided that the EQSC will be involved in the selection of the independent contractor; and that the selection of a date for the next Subcommittee meeting has been postponed pending preparations for the selection of the independent contractor.

Senator Gard, the Chairperson of the Land and Water Subcommittee, reported that her Subcommittee met on July 29; that IDEM provided the Subcommittee with an update on its Risk Integrated System of Closure (RISC) guidance document and on the triennial review of water quality standards; and that the Subcommittee also discussed the Indiana hazardous waste manifest system and whether it is still needed. [The **next meeting of the Land and Water Subcommittee** will be held on **Friday, September**

**3, in Conference Room A in the IGCS. It will begin at 10:00 a.m.]**

The members agreed to hold **the next meeting of the full EQSC on Thursday, September 9, beginning at 10 a.m.** (This meeting will be held in the **Conference Rooms 4 and 5 in the IGCS.**)

Senator Gard asked IDEM, in anticipation of the September 9 EQSC meeting, to do the following:

18. Review a summary of requests and recommendations directed to IDEM during the 1998 meetings of the EQSC<sup>4</sup> and prepare an update on the actions it has taken in response to those requests and recommendations.
19. Prepare to discuss IDEM's enforcement of underground storage tank requirements.
20. Prepare to discuss the status of Indiana's Solid Waste Management Districts and any current issues pertaining to them.

Senator Gard also asked EQSC member Lynn Waters to contact her fellow solid waste management district officers and invite them to the September 9 EQSC meeting.

Senator Gard adjourned the meeting at 12:36 p.m.

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<sup>4</sup> A copy of this summary is available in the Legislative Information Center.